

117TH CONGRESS  
1ST SESSION

# H. R. 2666

To amend the Communications Act of 1934 to prohibit providers of broadband internet access service from increasing rates or enforcing data caps or allowances during an emergency or major disaster, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 19, 2021

Mr. VAN DREW introduced the following bill; which was referred to the Committee on Energy and Commerce

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## A BILL

To amend the Communications Act of 1934 to prohibit providers of broadband internet access service from increasing rates or enforcing data caps or allowances during an emergency or major disaster, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-  
2 tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “New Overages in Crisis  
5 Areas Prevention Act” or the “NO CAP Act”.

1   **SEC. 2. REQUIREMENTS FOR BROADBAND PROVIDERS**  
2                   **DURING EMERGENCIES AND MAJOR DISAS-**  
3                   **TERS.**

4       Title VII of the Communications Act of 1934 (47  
5   U.S.C. 601 et seq.) is amended by adding at the end the  
6   following:

7   **“SEC. 723. REQUIREMENTS FOR BROADBAND PROVIDERS**  
8                   **DURING EMERGENCIES AND MAJOR DISAS-**  
9                   **TERS.**

10     “(a) IN GENERAL.—During a covered period with re-  
11   spect to a covered area, a provider of broadband internet  
12   access service may not, with respect to a customer of such  
13   provider in such area—

14          “(1) increase any rate, fee, or other charge re-  
15   lating to such service;

16          “(2) impose any rate, fee, or other charge relat-  
17   ing to such service that did not apply before such  
18   period; or

19          “(3) enforce any data cap or allowance, regard-  
20   less of whether such data cap or allowance applied  
21   before such period.

22      “(b) INAPPLICABILITY TO MOBILE BROADBAND  
23   INTERNET ACCESS SERVICE.—This section does not apply  
24   with respect to mobile broadband internet access service.

25      “(c) DEFINITIONS.—In this section:

1           “(1) BROADBAND INTERNET ACCESS SERV-  
2 ICE.—

3           “(A) IN GENERAL.—The term ‘broadband  
4 internet access service’ means a mass-market  
5 retail service by wire or radio that provides the  
6 capability to transmit data to and receive data  
7 from all or substantially all internet endpoints,  
8 including any capabilities that are incidental to  
9 and enable the operation of the communications  
10 service, but excluding dial-up internet access  
11 service.

12           “(B) FUNCTIONAL EQUIVALENT; EVA-  
13 SION.—The term ‘broadband internet access  
14 service’ includes any service that—

15           “(i) provides a functional equivalent  
16 of the service described in subparagraph  
17 (A); or

18           “(ii) is used to evade the protections  
19 set forth in this section.

20           “(2) COVERED AREA.—The term ‘covered area’  
21 means a geographical area with respect to which—

22           “(A) a major disaster or emergency is de-  
23 clared under the Robert T. Stafford Disaster  
24 Relief and Emergency Assistance Act (42  
25 U.S.C. 5121 et seq.); or

1                 “(B) a public health emergency is declared  
2                 under section 319 of the Public Health Service  
3                 Act (42 U.S.C. 247d).

4                 “(3) COVERED PERIOD.—The term ‘covered pe-  
5                 riod’ means, with respect to a covered area, the pe-  
6                 riod that—

7                         “(A) begins on the date of the declaration  
8                 with respect to such area of—

9                                 “(i) a major disaster or emergency  
10                 under the Robert T. Stafford Disaster Re-  
11                 lief and Emergency Assistance Act (42  
12                 U.S.C. 5121 et seq.); or

13                                 “(ii) a public health emergency under  
14                 section 319 of the Public Health Service  
15                 Act (42 U.S.C. 247d); and

16                         “(B) ends on the date that is 60 days after  
17                 the termination of such major disaster, emer-  
18                 gency, or public health emergency (as the case  
19                 may be).

20                 “(4) DATA CAP OR ALLOWANCE.—The term  
21                 ‘data cap or allowance’ means a limit on, or a fee-  
22                 based structure with the purpose of limiting, the  
23                 number of bits a customer may download or upload  
24                 using broadband internet access service during a pe-  
25                 riod of time specified by the provider of such service.

1               “(5) EDUCATIONAL INSTITUTION.—The term  
2       ‘educational institution’ means—

3               “(A) an elementary school (as defined in  
4       section 8101 of the Elementary and Secondary  
5       Education Act of 1965 (20 U.S.C. 7801));

6               “(B) a secondary school (as defined in  
7       such section); and

8               “(C) an institution of higher education (as  
9       defined in section 101 of the Higher Education  
10      Act of 1965 (20 U.S.C. 1001)).

11              “(6) MOBILE BROADBAND INTERNET ACCESS  
12      SERVICE.—

13              “(A) IN GENERAL.—The term ‘mobile  
14       broadband internet access service’ means a  
15       broadband internet access service that serves  
16       end users primarily using mobile stations.

17              “(B) INCLUSIONS.—The term ‘mobile  
18       broadband internet access service’ includes—

19               “(i) broadband internet access serv-  
20       ices that use smartphones or mobile-net-  
21       work-enabled tablet computers as the pri-  
22       mary endpoints for connection to the inter-  
23       net; and

24               “(ii) mobile satellite broadband serv-  
25       ices.

1                 “(C) EXCLUSION.—The term ‘mobile  
2 broadband internet access service’ does not in-  
3 clude a broadband internet access service pro-  
4 vided to an educational institution and made  
5 available by such institution for educational  
6 purposes to students enrolled at such institu-  
7 tion.”.

